

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA
Plaintiff,

VS.

MARK GRIMES
Defendant.

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§

CRIMINAL NO. 5:14-CR-00790-OLG

DEFENDANT'S SENTENCING MEMORANDUM SUPPORT OF
DEFENDANT'S REQUEST FOR COMMUNITY SUPERVISION OR ANY
ALTERNATIVE SENTENCE TO INCARCERATION

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant MARK GRIMES, by and through his undersigned attorneys, files this Defendant's Sentencing Memorandum Support Of Defendant's Request For Community Supervision Or Any Alternative Sentence To Incarceration and would show the court the following:

This Memorandum is filed as a supplement to the Pre-Sentence Investigation Report filed in this Cause.

I.

Mr. Mark Grimes is the son of Woodrow and Irene Grimes. He resides at 6007 Timberrock Dr. San Antonio, Texas 78242. In November 2014, he was terminated from Kohl's Department Store Call Center after two years of employment for the conduct that gives rise to the indictment and plea of guilty in this cause.

II

On February 26, 2012, Mr. Mark Grimes suffered an injury to his back in a car accident. His condition continued to worsen throughout years. After his arrest in this case he was diagnosed with herniated discs in his neck and his lower back. (Attachment A) On

March 27, 2017, Mr. Grimes started HF10 Therapy treatment on his lower back. A stimulator was implanted in his lower back. (Attachment B) Mr. Grimes continues to receive follow up treatment once a month. He is currently on Meloxicam and Tramadol for the pain. Mr. Grimes' current physician, Dr. Ricardo Alvarado, is searching for an in-network provider for Mr. Grimes to reaffirm his recommendation to begin HF10 Therapy and implant a stimulator in his neck. Mr. Grimes will have future therapy sessions planned in the weeks and months. (Attachment C)

On January 29, 2015, Mr. Grimes was diagnosed with Bipolar II and Post-Traumatic Stress Disorder. (Attachment D) Mr. Grimes is currently on Lamotrigine, Prazosin, Trazadone, Gabapentin and Bupropion to treat his mental illness issues. Mr. Grimes also continues to see his psychiatrist once a month.

III.

Mr. Grimes also respectfully requests that this Honorable Court consider the attached letters regarding his social history and character.

Attachment E is a letter from Mr. Woodrow Grimes, Mark Grimes' father.

Attachment F is a letter from Mrs. Irene Grimes, Mark Grimes' mother.

Attachment G is a letter from Ms. Christine Giesick, Mark Grimes' sister.

Attachment H is a letter from Mr. Michael Guerrero, Mark Grimes' cousin.

Attachment I is a letter from Ms. Janie Perales, Mark Grimes' aunt.

Attachment J is a letter from Mr. Jacinto Peralez, Mark Grimes' uncle.

Attachment K is a letter from Ms. Dolores Martinez, Mark Grimes' neighbor.

Attachment L is a letter from Mr. Toribio Espinoza, Mark Grimes' neighbor.

Attachment M is a letter from Ms. Juanita Charles and Mr. Edward Ramon, Mark Grimes' neighbors.

Attachment N is a letter from Ms. Felicia Ramon, Mark Grimes' neighbor.

Attachment O is a letter from Ms. Genevieve Ramon-Guzman, Mark Grimes' neighbor.

IV.

Sentencing courts are not limited to enumerated factors of the Federal Sentencing Guidelines when pronouncing sentence. *Koon v. United States*, 518 U.S. 81 (1996).

Since the *Koon* decision, the Fifth Circuit has not precluded inequitable disparity as a basis for a downward departure in an atypical case. *U.S. v. Wright*, 211 F.3d 233 (5th Cir. 2000).

In the alternative, Mark Grimes prays that this Court use its discretion to reduce his sentence pursuant to each of the considerations contained in Section 3553(a) of Title 18 of the United States Code. Such a reduction would be "sufficient but not greater than necessary to accomplish the goals of Section 3553(a)(2). *United States v. Booker/Fanfan*, 125 S.Ct. 738 (2005). This Court is not necessarily bound to impose a sentence within the sentencing range calculated using the Guidelines; this Court can consider the guidelines advisory. *See Booker*, 543 U.S. at 258-59. Depending on the nature of such circumstances, a downward departure may be justified. However, the Guidelines require the judge to state the specific reasons for imposing a sentence outside the applicable sentencing range. *See* 18 U.S.C. § 3553(c)(2). *U.S. v. Jones*, 444 F.3d 430, 441-42 (5th Cir. 2006) (court must enumerate particular reasons for departing from Guidelines range even after *Booker* rendered Guidelines advisory).

It has established that a non-Guidelines sentence is unreasonable when it (1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors. *United States v. Smith*, 440 F.3d 704, 708 (5th Cir.2006). 18 U.S.C.A. § 3553(a); U.S.S.G. § 1B1.1 et seq.

Since the Supreme Court's holding in *Booker*, the district courts are referred to the considerations of 18 U.S.C. 3553(a) and are mandated to impose a sentence which is "sufficient but not greater than necessary" to achieve the purposes of sentencing set forth in 18 U.S.C. 3553(a)(2). Courts have recognized that the guideline range is just one consideration for the court. The gravamen of *Booker/Fanfan*, *id.*, is that a sentence must be "reasonable," and not be the mere result of mathematical calculations based upon allegations which would not be admissible at trial due to Fifth and Sixth Amendment considerations such as the right to confrontation and other due process guarantees.

The specific reasons this Court should downward depart from the recommended guideline level are:

- 1- Mr. Grimes' mental health diagnosis.
- 2- Mr. Grimes' physical diagnosis and prognosis.
- 3- Mr. Grimes' admission to his criminal conduct.
- 4- Mr. Grimes' immediate cooperation with law enforcement.
- 5- Mr. Grimes' significant family support.
- 6- Mr. Grimes' compliance with bond conditions.
- 7- Mr. Grimes' genuine remorse for his actions.

V.

In light of the above, this Honorable Court may wish to sentence Mark Grimes to a sentence, which does not include any –or very little – actual incarceration. The Supreme Court has upheld such a dramatic departure/variance under very similar circumstances in *Gall v. United States*, 552 U.S. ___, 128 S.Ct. 586 (2007). While the Guidelines prohibit probation, the statute does not and this Court could – by providing an adequate and justifiable explanation – legally depart sentence Mark Grimes to probation. Alternatively, the Court could sentence him to "time served," and place him on the

maximum term of supervised release, i.e., five years, with a condition of home confinement.

Finally, the Court could grant a Booker variance rather than a departure and quite reasonably grant a non-jail sentence, which would still be sufficient but not greater than necessary. 18 U.S.C. § 3561(c)(1). A sentence of probation, or even lifetime supervised release, would reflect this Honorable Court's sense of justice, fundamental fairness, and mercy. Furthermore, in light of Gall, id., it would be beyond reproach by the appellate courts. If this Court feels that incarceration is appropriate in this case, we ask for the statutory minimum of sixty (60) months.

PRAYER

Mark Grimes and his family respectfully pray that this Honorable Court find his guideline range inappropriate in this case and/or then place him on probation or any other non-jail sentence the Court believes is appropriate.

Respectfully submitted:

/S/ Sam Lock

Sam H. Lock
1017 S. Alamo
San Antonio, TX 78210
(210) 226-0965 Telephone
(210) 226-7540 Telecopier
Email: sam@locklawfirm.com
Texas State Bar No. 24000470

/S/ Kerrisa Chelkowski

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant's Memorandum was provided to the
United States Attorney on June 20, 2017.

/S/ Sam Lock
Sam H. Lock

ATTACHMENT A



Huebner Professional Center
9627 Huebner Road, Suite 100
San Antonio, Texas 78240
Phone (210) 690-3400
Fax (210) 690-3407
www.thenewmri.com

Pt. Name: Mark Grimes DOB: 10/28/77
Physician: Dr. Ricardo Alvarado Study date: 05/09/16
History: 38-year-old male with severe lower back pain.
Examination(s): MRI Lumbar Spine with flexion, extension and bilateral bends

Technique:

The lumbar spine was imaged with the following sequences with the patient in the sitting upright position: Axial and sagittal T1, axial and sagittal T2. Sagittal T2 with flexion and extension.

Findings:

Alignment of the lumbar spine reveals reversal of the usual lordotic curvature. No subluxation or retrolisthesis is seen. Mild narrowing with diminished signal of the L5-S1 disc is identified. The lumbar vertebrae are intact as are the posterior elements.

The conus medullaris as well as cauda equina reveal no intra or extradural mass.

The L1-2, L2-3, L3-4, and L4-5 levels are unremarkable.

At L5-S1 a focal 5mm left subarticular disc herniation is seen flattening the thecal sac and compressing the left S1 nerve root. Mild bilateral foraminal narrowing is noted.

Impression:

1. Reversal of the usual lordotic curvature of the lumbar spine is seen without segmental instability.
2. At L5-S1 a 5mm focal left subarticular disc herniation compresses the left S1 nerve root with flattening of the adjacent thecal sac. Mild bilateral foraminal narrowing is seen.

Electronically signed by:

JAMES E. REMKUS, M.D., F.A.C.C.
Neuroradiology and Musculoskeletal MRI

Approve Date: 05/10/16



Huebner Professional Center
9627 Huebner Road, Suite 100
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Phone (210) 690-3400
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Pt. Name: Mark Grimes DOB: 10/28/77
Physician: Dr. Ricardo Alvarado Study date: 05/09/16
History: 38-year-old male with severe neck pain.
Examination(s): MRI Cervical Spine with flexion, extension and bilateral bends

Technique: The cervical spine was imaged with the following sequences, with the patient in the upright sitting position: Sagittal T1 and T2, axial T1 and T2. Sagittal T2 with flexion and extension.

Findings:

Alignment of the cervical spine reveals reversal of the usual lordotic curvature. In the neutral position no subluxation is seen. No instability with flexion or extension is seen. Mild disc space narrowing with disc desiccation at the C5-6 and C6-7 levels is seen. The cervical vertebrae are intact as are the posterior elements.

The cervical cord reveals no cord contusion. Developmental narrowing of the central cervical canal is seen.

At C2-3 a 3mm subligamentous disc herniation is seen.

At C3-4 a 3mm subligamentous disc herniation flattens the cervical cord without foraminal narrowing.

At C4-5 a 3mm subligamentous disc herniation flattens the thecal sac as well as the cervical cord with mild canal stenosis.

At C5-6 a 4mm disc bulge effaces the thecal sac with mild canal stenosis. No foraminal narrowing is noted.

At C6-7 a focal 3mm subligamentous disc herniation effaces the thecal sac with mild canal stenosis. No foraminal encroachment is present.

The C7-T1 level is unremarkable.

Impression on Page 2

Mark Grimes (DOB: 10/28/77)
MRI Cervical Spine with flexion, extension and bilateral bends
DOS: 05/09/16
PAGE 2 of 2

Impression:

1. Reversal of the usual lordotic curvature of the cervical spine is noted. With flexion and extension, no instability is identified.
2. Developmental narrowing of the central cervical canal is seen. No cord contusion is noted.
3. The C2-3 and C3-4 levels reveal focal subligamentous disc herniation indenting the thecal sac without cord compression.
4. At C4-5 a 3mm subligamentous disc herniation effaces the thecal sac with mild canal stenosis. No foraminal narrowing is seen.
5. At C5-6 a 4mm diffuse disc bulge effaces the thecal sac with mild canal stenosis. No foraminal narrowing is present.
6. At C6-7 a 3mm subligamentous disc herniation flattens the cervical cord with mild canal stenosis. No foraminal encroachment is present.

Electronically signed by:

JAMES E. REMKUS, M.D., F.A.C.C.
Neuroradiology and Musculoskeletal MRI

Approve Date: 05/10/16

AMERICAN DYNAMIC IMAGING
9627 Huebner Rd., Suite 100* San Antonio, Texas * 78240
Phone (210) 690-3400

ATTACHMENT B



Date: 10/19/2016

Re: Mark Grimes
D.O.B.: 10/28/1977

Mark Grimes was treated in our office by RICARDO ALVARADO , MD. It is my opinion that it is medically necessary for this individual to continue under my care following both DRG trial and if successful DRG perm. Patient will need to be seen in my office for equipment update, changes, questions or concerns as needed.

Please call our office with any questions at (210) 910-6653.

Sincerely,

RICARDO ALVARADO , MD

CHANGED TO

AFIO
Therapy



Dr. Alvarado's POST-OPERATIVE DISCHARGE INSTRUCTION:

Please follow the instructions that have been checked --

1. ACTIVITY

- ☒ No restrictions
- ☒ Do not drive, operate hazardous machinery for the next 24 hours.
- ☒ Rest today, increase activity tomorrow as tolerated.
- ☒ May return to work / school
- ☒ You must have a responsible adult with you for 24 hours after anesthesia for your comfort and safety.

2. DIET

- ☒ No restrictions.
- ☒ Light diet today, normal diet tomorrow.
- ☒ No alcoholic beverage for the next 24 hours or while taking your pain medication.
- ☒ Other:

In case of nausea or vomiting, reduce your diet to fluids low in acid. As you are able to tolerate fluids, gradually increase your diet. If nausea or vomiting persists, contact your physician.

3. MEDICATION

- ☒ Last pain medication given to
- ☒ Take prescribed medication as needed. Exercise caution when walking, driving or climbing stairs.
- ☒ You may take over the counter medications for relief or discomfort.
- ☒ Prescription / medication given to patient / escort
- ☒ No aspirin products until cleared by Dr. Alvarado.
- ☒ If you have persistent or increasing pain, call your physician.

3. WOUND CARE

- ☒ Keep dressings dry. You may change the dressing if it becomes wet or soiled.
- ☒ Spinal Cord Stimulator TRIAL: Do not remove the dressing until your office visit.
- ☒ Spinal Cord Stimulator PERMANENT PLACEMENT: Remove dressing tomorrow & then may shower. No soap in the region of incision.
- ☒ Contact your physician should your dressing become wet or soiled.
- ☒ You may remove your dressing in _____ hours.
- ☒ May shower ☐ Tub bath ☐ Sponge bath
- ☒ Apply an ice pack to the operative site on/off for the next 24 hours followed by heat. (20 minutes on 20 minutes off with towel wrapped around the ice pack.)

SPECIAL INSTRUCTIONS

- ☒ No lifting over 10 lbs. ☐ Today ☒ Until cleared by Dr. Alvarado.
- ☒ No strenuous activity. ☐ Today ☒ Until cleared by Dr. Alvarado.
- ☒ Keep affected extremity elevated for _____ hours.
- ☒ No weight bearing ☐ Weight bearing as tolerated ☐ Crutches / Walker / Cane ☐ Post Op Shoe ☐ Sling
- ☒ No bending, lifting, twisting, or overhead reaching until cleared by Dr. Alvarado.
- ☒ For Medial Branch Block: Please perform light activities today and take notice of any changes in your pain, and report at your follow up appointment. Especially for the first 24-48 hours.
- ☒ Take notice of any changes in your pain & report at your follow up appointment. You may want to keep a pain diary.
- ☒ Other: Please refer to fall prevention sheet & Dr. Alvarado's Discharge Instruction Sheet

4. FOLLOW UP CARE:

- ☒ See your doctor on 4/11/17 at 10:45am or by Pedras days.
- ☒ Call Dr. Alvarado's office to schedule a follow-up appointment as they direct you to, if you have not scheduled one already.
- Office # (210) 910-6653

NOTIFY YOUR PHYSICIAN IF YOU HAVE ANY OF THE FOLLOWING:

- ☒ EXCESSIVE BLEEDING AT THE SURGICAL/ PUNCTURE SITE.
- ☒ FEVER > 100 °, CHILLS.
- ☒ NUMBNESS / TINGLING OR CHANGES IN COLOR IN THE AFFECTED EXTREMITY.
- ☒ EXCESSIVE REDNESS OR UNUSUAL DRAINAGE AT THE SURGICAL/PUNCTURE SITE.
- ☒ SEVERE HEADACHES THAT WORSEN WITH SITTING UP AND GET BETTER WHEN LAYING DOWN.

My postoperative instructions have been explained to me (and my escort) & I have received a written copy of these instructions.

Patient / Responsible Party

R.N.

Date/ Time

Any complaints can be referred to James Maxey- Administrator at 210-455-4150

ATTACHMENT C



Date: 06/01/17

Re: Mark Grimes
D.O.B.: 10/28/1977

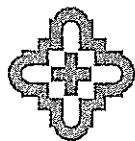
Mark Grimes was seen in our office by RICARDO ALVARADO , MD on 06/01/17

Mr. Grimes will have future therapy planned for the next weeks to months for his current conditions. If you have any questions or concerns please feel free to call my office at (210) 910-6653.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ricardo Alvarado', with a long horizontal flourish extending to the right.

RICARDO ALVARADO , MD
[



SOUTHWEST GENERAL HOSPITAL

Patient: Mark Grimes (Pacts#782991) DOB: 10/28/1977 Age: 37 Sex: Male

Date: 01/29/2015

Psychiatric Evaluation Narrative:

Patient is a 37 year old Latin American Male, single, never married, no children and lives with his parents. He was referred for psychiatric evaluation by United States District Court Western District of Texas, Pretrial Office. The patient presents for evaluation with symptoms of depression, depressed mood, low energy, episodic crying, anxiety, poor concentration and loss of interest. The patient reports poor sleep and good appetite. The patient reports no Suicide Ideations or Homicidal Ideations. He states to having a history of depression and mania. He is groomed and casually dressed. Attention is fair with normal motor activity. His mood is anxious and moderately depressed. Speech is clear, with normal rate and volume, affect is appropriate, he is cooperative and appears his stated age. Intellect is average.

Other symptoms identified by patient:

He admits to positive worth and hope, but has crying spells.

Past Psychiatric and Medical History:

Patient reports that he has a history of Depression and PTSD. He has no history of hospital admissions for inpatient psychiatric stabilization and treatment. He reports no suicidal ideations or attempts. He has a medical history of Low Back Pain from a MVA. He has a history of appendectomy surgery. He has a family history of Diabetes.

Social Developmental History:

The Patient was born in San Antonio, Texas. He was raised by both parents. He completed high school. The patient denies tobacco use, illicit drug use and alcohol use. The patient reported that he was molested as a child and suffers from PTSD. Patient denies a history of illicit drug use and ETOH use.

Mental Status Exam:

The patient presented for this evaluation with fair attention and focus. Affect was appropriate to situation and mood was depressed. Appearance was groomed, motor activity normal and all thought processes were intact. The patient denies auditory, visual hallucinations, olfactory or command hallucinations as well as delusions. Memory appeared to be intact and age appropriate as well as judgment and insight. The patient was oriented times four (Person, place, time and purpose). He denies current suicidal and homicidal thoughts. Speech at time of evaluation was normal.



SOUTHWEST
GENERAL HOSPITAL

Strengths, areas of improvement and goals:

Patient presents with motivation. His strengths are his family. His prognosis is fair. Current goals include monitoring for compliance of medication and side effects and decrease agitation/anxiety /panic. No labs were needed, and all benefits, risks of treatment, and medication education provided.

Diagnosis:

Axis I: Bipolar II
Axis II: PTSD
Axis III: Deferred
Axis IV: Social and legal
Axis V: 58 current, highest 75

Prescriptions:

Wellbutrin SR 100mg every morning for mood
Neurontin 100 mg twice a day for nerves
Lamictal 25 mg twice a day for mood and nerves
Benadryl 25 mg one at night for sleep

Recommendations:

Follow-up appointment to monitor compliance with medications- 3 weeks

Evaluation Completed by:

Dr. Damaso A. Oliva Jr.
Date Completed: 01/29/2015

ATTACHMENT E

To the Honorable Judge Garcia

My name is Woodrow Grimes and I am Mark's father. I am going to be 70 yrs old in Aug and I am a 100% disabled Viet Nam Vet. from wounds received in Nam. I also spent 8 months on DMZ zone in Korea, clearing ANTI PERSONAL mines from NO MANS LAND. I have been diagnosed with P.T.S.D. and Liver Disease and I don't think I have very long to live.

I love my son with all my heart and I want to assure you Judge Garcia that my son would never hurt anyone, Physically or Mentally on purpose. My Son has been TRAumatized all of his life by being Born Blind and having to go to a special School for the Blind, he had to wear a patch over over his eyes for a long time, when he was just a child. He was also a very shy and Timid due to his sight. and all the times he was picked on by other kids. His hands still Tremble very Bad. I am not sure if it's a nerve disorder from my being in AGENT ORANGE or a spinal problem or a TRAumatic result of His

Over

uncle sexually molesting him at a very young age. His uncle (Yogi) was over 6 feet TALL and weighed over 300lbs, a very intimidating MAN. I also found this out just 2yrs ago, when this case began. I also found out That (Yogi) also Sexually molested my older daughter when she was very young, and that he also molested his brothers son too. This Uncle Yogi has put our family through Pure Hell; let alone what he has done to our children. So I am Prending to you Judge Garcia, Mark has spent almost 3yrs in my house with a Leg monitor on he was confined to the inside of our home, the only place he went was to see Pre-Train and his DRS. He has just had an operation on his Back where he had IMPLANTS put in for his Pain. These implants have to be charged every 24 hrs or his Pain will come back Real Bad. His Doctors say that Mentally he is getting Better, and I think with continued help mark will be ok. So I am asking you Sir, not to send my son to Prison, where he will be more TRAMATIZED, Please let his Mom + Me Take care of Him at Home, PLEASE!

Thank You & God Bless You
OVER

We will agree to abide by any Rules THAT you set forth. He needs to be in a place where he will get help Mentally, He has never been in any kind of trouble in his whole life, and he has never hurt anyone. He is not a threat to anyone. I think that everything that has happened is because of him being sexually abused by his uncle. Please Sir, let us work with our son here at Home.

Thank You
M & Mrs. Grune

This letter is in reference to the computer infraction that occurred because of my use. My name is Warkaw N. Grimes, I am Mark's Father and Pre-Trials agreed to let me keep my computer at home, while Mark was here, with certain rules and times that Mark could use it, because they had to install some kind of software. I agreed to their rules. The only way each of us could use it was to be assigned special passwords. Mark did not know mine and I did not know his.

When this infraction occurred, I was signed in and I was using the computer not Mark. I was told by Pre-Trials I could use the computer at any time as long as MARK was not on it and as long as I sign in with my Pass Word. ("Sorry for my writing I am 70 yrs old in Aug so I am a lil sloppy!")

I would like to say that I did not go into any PORNO site on purpose I would not jeopardize my Son's Future in any way, so if I have done something wrong I do apologize. My Son has done NOTHING Wrong in this matter.

Thank You Warkaw N. Grimes

ATTACHMENT F

Dear Judge Garcia

4-29-17

When Mark came home in Oct 2014 after being picked up by the FBI. He told us about his sexual molestation, for the first time, Also about what he had done that caused to be picked up

What Mark told us were the hardest things for parents to hear from their grown son.

As a young boy Mark was always very shy, at age six he was diagnosed as legally blind and had to wear a patch for lazy eye, he wore it all his waking hours till almost 9 yrs old. Unfortunately this caused him to miss out on his academic basics which was never able to catch up.

In 10th grade he was advised to go to school part time & get a job part time to prepare him for a future job after graduation

Mark has had severe anxiety for years, we always thought it was due to his asthma but now I think his molestation caused it.

My husband & I believe Mark has been healed in mind & spirit we have watched

him changed and is a strong minded person who is sorry for what he has done. Mark gives all the change to his sessions with Doctor Roland. We don't think Mark is a danger or threat to anyone.

We are willing to have Mark stay here as long as needed, or help him with all we can.

Mark says he is willing to do his time - he says he is strong-minded and will be OK.

I worry about his neck is so injured that the doctor won't even allow him to go outdoors. Being sent to a facility, and if something locks up in his neck it may cause him to be paralyzed.

Sorry this letter is not typed, we are not allowed to have a computer.

Mark A. Grimes's
Mom Irene Grimes

ATTACHMENT G

April 18, 2017

Dear Sirs,

My name is Christine Y. Giesick; Mark Grimes is my younger brother. We are both victims of a Sexual Predator who was our uncle Eugene Guerrero (aka Yogi). I feel like he has left an ugly mark on all of us in different ways.

This is not easy writing down/typing up my childhood memories. I don't think I can stand to type them all. These are just a few that have stood out most. I'm scared of what you may think of them, these are my ugly secrets, and I'm not sure if they will help or if this will just make things worse.

Yogi sexually molested me throughout almost all of my childhood. I feel that he took advantage because of the lack of parental participation. At the time my father was not around much, he was an alcoholic and his main concern was drinking. My mother was doing her best to support the family, but was not always around and I got left alone with my uncle Yogi a lot. But having other family around never stopped him from finding ways to be with me and occasion with my other cousins at the same time.

My best recollection I would have to say I was molested from between the ages of 6 years to about 13 years. Later on he still would ask me inappropriate personal questions when ever we were visiting, like if I had boyfriend and if we were having sex. He would always ask me to tell him about them & my experiences.

It all started out very innocent but became over time he became more creative and manipulative in ways to expose me to different sexual experience.

The first time that really remember something unusual, was when I was very young first or second grade. We lived on the same street as my grandparents. One day I was playing with my friend who lived next door to my grandparents. We where in her backyard play with dolls. Yogi was calling me to come over to him; he was talking out of a little window, which I thought was funny. I couldn't figure out which room he was in because I

didn't remember this window from the inside of the house. I asked him where was he, he said he was in the shower and saw me playing & had to tell me how pretty I looked. I never thought anything bad, I was just happy to have someone notice me. I didn't think any thing was wrong and went back to playing with my friend.

Over the next year he tried to spend more time with me, when we came over he would always ask me to come to his room so he could show me something. He would ask me to sit on this bed and then his lap, most of these times where the simple touches on my legs and my shoulders. Just generally touching me or sliding his hands over my clothes, never going further than that.

Later on the touching became more. This is when he started taking me outside to my grandmothers store room, everyone called it by a Spanish name the "Cuartio" which I'm sure I'm totally butchering the translation.

He would always stand me on a chair of some kind of box so that I would be taller. He would usually only undress half of me, taking off my shorts or pants, unless I was in a dress. Again he started slow and would talk low and sweet, first he would tell me how he loved my hair how light and curly it was. Then he would say I was his special girl and he loved me and that I was so pretty or that I was such a good girl. Then he would start to touch me on my shoulders and legs like always but then he moved in between my legs in the front and my bottom. When I would complain too many times that it hurt he would stop and dress me and send me out. I always had to wait for him to come out; sometimes I would feel guilty like I made him mad because I complained too much. This was a very confusing time for me, because sometimes it felt good while other times it hurt. I just didn't understand at the time, I still don't know why I felt that way. I've been told I have a "Daddy Complex" and that I was seeking attention from a daddy figure and was just trying to please him.

As I mentioned earlier I mentioned Yogi would talk to me sometimes I didn't understand all of the questions he would ask. But not just me I remember one time when my younger cousin Michael and I where alone with Yogi one time. He told Michael and me to show our privates to each other. Then he asked us questions about it. What did we think about each other; how did we feel and such.

As time went on the trips to the "Cuartio" changed... He became more aggressive and explored all of me. I will never forget his large fingers, and how he would use them on and in me in my vagina, but it would always end the same way with anal.

When I think back he wasn't very long, but that could just be my imagination as I was always on a higher level and faced away from him but I will never forget the burning and pain. By this time we would always leave about the same time because I stop complaining and tried to be his special girl, I was only scared sometimes of him I never wanted to make him angry. When I think back, I don't ever recall him ever threaten me, just him saying over and over it was our little secret and I didn't want to get in trouble.

As I got older I learned the best way to avoid him was to always try to say in the Kitchen with the rest of the adults during family gatherings it worked most of the times. But this was difficult as they would always send the kids to the living room and Yogi's bedroom was right off of that room.

Today parents are encouraged to talk to their kids about good touch and bad touch. Back then most parents didn't talk about things like that or any other important things. I remember when I was 9 years old I got my first period at school and I was so upset I was sent to the nurse. By the time I got up to the office I was hysterical. I thought I was dying because I was being punished by God because I wasn't a good girl. The school nurse had to explain to me about menstruation and I was sent to home, I had to walk home all by myself. My mind was going a hundred miles a minute, when I got home and asked my mom why she didn't tell me about periods, she said because her mother never told her.

I will never forget when I was told of Yogi's death, it felt like a weight was lifted off of my shoulders and I could just breathe a little easier. Everyone was so worried about me at the time as I was expecting my first child, the only person at the time that new how I could possible be feeling was my husband of over 28 years.

He knows about my past how it has it affected me over the years. Especially in a way that may have contributed to me being an extremely sexually active teenager. I was always seeking out male attention usually an older male. My husband & I started dating when I was a senior in high school and he was 22years old.

One day when I was about 22 I was visiting at my mom's house we were watching an Opera Show on Child Molesters and I broke down and cried and told her what happened to me. At the time my grandmother was having health issues. My mother was concerned, so at the end of the conversation it was decided that it was to be kept a secret. I told her I was ok now and not to worry because he was dead. Yogi had been dead for some time. If you didn't know he was shot to death when he was caught raping a women.

Over the years I express my concerns that Jessica my younger cousin may have been also molested as a child. As she and her mom lived with my grandmother and Yogi for many years. But my mom always disregarded my concerns and changed the subject.

Years later after my grandmother passed away, my Uncle Arthur Guerrero informed my mother that both his sons were sexually molested by Yogi. She then told him that I had told him about me as well. I always felt like my mom never believed me. Especially when she would bring him up and say how wonderful he was because he was taking care of my grandmother. But after hearing confirmation from my Uncle Arthur it felt like she finally believed me.

But to this day we have never brought it out to the whole family it's still mostly a secret still not known by the whole family. As a matter of fact I only told my dad about this a few years ago when he complained to me that I was never going to help my mom or going with my mom to visit or take care of my grandmother. I finally had to explain to him, how I would physically get sick just by visiting & I couldn't pretend everything was ok any longer and finally had to tell my dad about being molested by Yogi.

He was very upset with me that I didn't tell him. All I could say back, was he was never around and if he was he was always drunk. As you can guess things were tense between us for a few years.

Yogi is gone now, but to this day I still don't sleep well the memories and nightmares are never really gone. I never know when something is going to trigger a memory it could be a smell or sound. To this day I suffer from anxiety attacks and claustrophobic spells from musty smells & small spaces.

I have discussed visitations between Mark and my daughters. I know I can trust him I don't get that weird vibe or bad feelings from him.

You may not understand this and think its silly, but sometimes when I meet or just in the same space as another man. I get a strange feelings like my hairs on my neck are standing up and my breath is short and I can't breathe right. I also get this feeling when I see men looking at my girls or other children. Most of the time I can deal with this, but one time while we where on vacation in Rock Port, TX. We were walking into the Wal-Mart store and a 2 men and a lady were walking out. One of the men was staring at my daughter who was on about 12 years at the time and he was almost drooling. I lost it completely and started yelling at him that he was a pervert and an old man and should be ashamed of him self, because she was only a little girl. At the time if I didn't have the shopping cart in front of my I may have attacked him, when my husband ask me what was wrong with me I told him what the man did and how I felt violated and angry for Brittani because she was just a little girl and shouldn't be looked at a striper on a poll.

I've had this feeling a couple of times. If you don't believe me its ok most people don't. I've had these feelings a couple of times. Several years ago I told my family & friends that I had a bad feeling about a neighbor. I lost their friendships with some of my neighborhood over this. Unfortunately I was proven right as he was recently arrested for sexual molestation & rape of the one of the girls. I never had any proof only my feelings.

Now as far as how my daughters feel, about Mark they are all a little nervous and know that he didn't hurt anyone, but they are all in agreement that what he did was wrong and he needs help. They are all happy that he is seeing a Therapist and a Physiatriist and have hope that these with help him.

Tiffani and Kasey have express some concerns about feeling uneasy & anxious about this whole process. They have been exposed to some ugly dirty family secrets from my family. Although my girls new about my past, as I have been upfront about good and bad touch/feelings & about Sex.

I wanted them to have the knowledge that I could confide in parents about abuse or in my life experiences. My daughters tell me that I'm extremely over protective of them. I would do almost anything to keep them from being hurt the way I was.

If I didn't trust Mark I wouldn't even offer my support or even allow my daughters any where near him ever, if I thought he would hurt them. All my girls have expressed the love for their Uncle Mark. They just would like to take the visitations very slowly at first. Kasey my youngest (age 14) has specifically asked if she has to hug him when she says hello.

I told her no she didn't and I would never force her to or would I force her to visit Mark if she didn't feel comfortable spending time with him.

I hope this information helps in some way to gain some background on the ways Yogi has effective our lives and how we all have strived to stay together and have learned to support one another.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine Y Giesick". The signature is fluid and cursive, with the first name "Christine" being more prominent than the last name "Giesick".

Christine Y Giesick

ATTACHMENT H

April 8, 2017

The Honorable Orlando L. Garcia
Chief U.S. District Judge
United States District Court
Western District of Texas
655 E. Cesar Chavez Blvd.
San Antonio, Texas 78206

Re: Mark Anthony Grimes, Cause No. SA:14-CR00790

Dear Judge Garcia,

I am a member of the Texas Bar since 2010 and the cousin of Mark Grimes. I had a close relationship with Mark through childhood, and we spent much time together during our formative years. I regret not being in attendance at Mark's sentencing hearing, however through this letter I wish to corroborate some representations made in the record, as well as confirm my own beliefs about Mark's moral character.

I have had many opportunities to speak with Mark about these charges. I sincerely believe that Mark is remorseful for his actions. I can state first-hand that Mark is fully accepting of his responsibility for these actions. He is remorseful not only for his offense, but also for the pain and anguish he has caused to those affected. He has deep regret, as I have heard him break down emotionally more than once when discussing these events. I have also heard him express the overwhelming desire to begin repaying his debt to both society and to those closest to him who have stood by him through this ordeal. I believe that Mark is sincere and genuine in this repentant sentiment.

I can personally attest to the fact that Mark was abused sexually as a young child by an older member of our family. As with many families, this fact was buried, never to be discussed openly. However, as a result of this prosecution, Mark has opened up about the affects of these traumatic childhood events, as well as the affects of his own offense. As someone who deals with sexually violent predators in practice, I believe that Mark's openness and acceptance through this criminal prosecution have served both him and the community he offended.

I believe leniency in this case would not jeopardize public safety. Mark has been around my own children in the past, and I would not hesitate to bring him into their presence now. I personally do not believe Mark is a threat to society, nor do I believe that he will reoffend. I pray the Court takes this account into consideration when sentencing Mark.

Sincerely,

Michael Guerrero, State Bar No. 24072131
154 Elkins Lake
Huntsville, Texas 77340
Tele 936.662.8241

ATTACHMENT I

yvonne@locklawfirm.com

From: Annette Perales <aperl70@gmail.com>
Sent: Friday, May 05, 2017 9:55 PM
To: yvonne@locklawfirm.com
Subject: Mark Grimes

Your Honor,

My name is Janie G Perales, I live at 405 W. Pipe Creek Dr. Pipe Creek, Texas 78063. Sir, I am Mark Grimes aunt, his mother is my sister, Irene Grimes.

When Mark was born, I actually asked his mom if I could adopt him, but she said no. I have been around Mark all his life. When he was born, he had eye problems, he was severely cross eyed. They had to tape his eyes so they could try to train his eyes. The tape tore his skin all around his eyes. He was so little and in so much pain it was so hard to watch him go thru this as an infant. He was declared legally blind as a child and all his life he had so many eye problems. It was very traumatizing for him as a child. Another thing he went thru as a child was being sexually abused as child by someone who was trustee by all of his family. Imagine him keeping this to himself all these years the torment and torture he went thru as a small child being abused by his uncle and no one knew. This is very traumatizing to a child to carry this around all their life. He will have to live with that all his life.

I have always been around Mark, and he has always been considerate and polite and very caring for everyone around him. He has always been a very thoughtful and caring nephew to me. I must say that he has never done anything wrong in front of us. He has always been very kind to me. I have to tell you that his neck and back problems have really put a toll on him. He is always in so much pain, he can't get comfortable he can't lay down on a regular bed like a normal person, his neck and back pain is constant and so severe he has to sleep in a recliner. You would think him being confined to his moms house for so long would make him hateful or put him in a bad mood but no on the contrary he is a delight and has been seeking God and praying and trying to turn his life around, even though he is in so much pain. His pain is so severe the doctors have told him he is Permanently Disabled and the slightest wrong move can cause paralysis or death. This scares me if he goes to jail he is the shy quiet one and if he were to get roughed up in there he could be paralyzed for life or die. I beg of you not to put him in jail he would not survive in there. He doesn't deserve to go to jail he has already been confined to the house for so long. He didn't harm anyone physically, I will not say what he did was right but he does not deserve to go to prison for his crime. I am not perfect and do not want to judge my nephew, we have all sinned and come short on the Glory of God but I have to say we all learn from our mistakes. Let's give Mark, a chance to Live to try and get a job and be a productive member of society. It will not be easy for him he has asked for God's forgiveness and is seeking God's guidance in his life he has learned what he did was wrong.

I would just like to say his mom and dad have spent all their savings on helping him. They love him Dearly and his mom can't stand to lose another son she has already lost one. His older brother died in a car crash also she has heart problems. His parents are doing their best to help him. Thank you for taking the time to hear me.

Thank You,

Janie G. Perales

ATTACHMENT J

yvonne@locklawfirm.com

From: Annette Perales <aperl70@gmail.com>
Sent: Friday, May 05, 2017 10:16 PM
To: yvonne@locklawfirm.com
Subject: Mark Grimes letter from Pastor J. Peralez

To Whom it May Concern,

My name is Jacinto Peralez, I am writing to you today on behalf of my nephew Mark Grimes. Now I know what he has done, but if I may say no he did not hurt anyone. Considering he has not physically hurt anyone he has paid a good price so far, and who knows how much more he will have to go thru.

I know his reputation is now ruined, just getting a job is going to be hard. I know he will never be trusted by people or friends with kids ever again. He will never be the same again. The bad thing about it is his parents are also suffering, physically emotionally and financially they love him so much.

Now I know the law is the law it is there for a reason, but we all make mistakes, no one is perfect, we learn from our mistakes. Jesus said, He who lives with no sin cast the first stone. Mark is a good working man he has never hurt anyone. He goes to church with his mom and dad. He doesn't do drugs or drink. I pray that the Good Humble Judge will be merciful and not send him to jail or prison for he has suffered enough in his life.

Sincerely Yours,

Pastor Jacinto Peralez

ATTACHMENT K

To whom it may concern:

4/30/17

I Dolores Martinez have lived at 6006 Timberrack for more than 22 years. Within those years I have gotten to know the Grimes family who are dear friends to my daughter age 16 and I. Mark Grimes has always shown kindness, decency, and humility in helping his neighbors when needed. Due to a poor decision made by Mark it has affect his elderly parents including the Martinez family. I have seen a dramatic change in him of being withdrawn and to himself when prior he was one to help anyone in need. If you have any questions my number is 210-244-3447.

Thanks a concern
friend and neighbor,
Dolores
Martinez

ATTACHMENT L

6-4-17

Toribio Espinoza
5423 Timberbrook
San Antonio, Texas
78242

Your Honor,

me & Mrs. Galmas have been neighbors of mine from down the street of my home for more than twenty plus years.

Their son Mark, I have know also for many years' too.

I would like to share if I may my own personal experience and knowledge of Marks' locality persona.

Mark has always behaved in a helpful caring way towards his parents, myself and others.

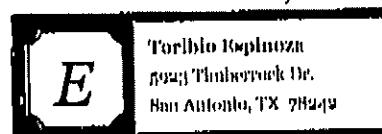
I have never seen or witness him in a hateful aggressive harmful way.

It is saddening to come to learn he is facing incarceration for a sickness.

Please know that I feel he is a good person who is capable of feeling remorse for his behavior, and is capable of change.

Please allow Mark Grace (leniency).

Thank You
Toribio Espinoza



ATTACHMENT M

April 28, 2017

To whom it may concern,

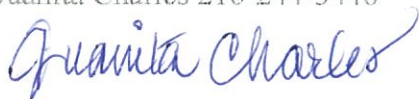
For Mark Grimes,

Our name is Juanita Charles and Edward Ramon. We have lived next door to Mark for twenty-one years. We would like to say that Mark has been an outstanding neighbor. We have raised our four children here at this home. Our eldest is 25, second 23, third 15, and last is 12. Before the incident Mark has always been helpful and respectful to our family and also to the neighborhood. Mark has always been a caring friend. People make mistakes and I know that Mark acknowledges what he did was wrong, but we still have a high opinion of his character, generosity and friendship. We have seen since the incident that Mark has done everything and anything to follow the rules he has been given. He also has health problems that we feel might have been caused by all that he is going through.

Mark also has church going elderly parents that need him at home. Before the incident he was very helpful to his parents. Anything that needed to be done he was their go to person. Now it is the other way around. Marks parents are worried for him. Please leave him at home to care for his parents where he would be more beneficial.

Thank you,

Juanita Charles 210-244-3446

A handwritten signature in blue ink that reads "Juanita Charles". The script is cursive and fluid.

Edward Ramon 210-618-2759

A handwritten signature in blue ink that reads "Edward Ramon". The script is cursive and fluid, with a long horizontal flourish at the end.

6011 Timberrock, San Antonio, TX 78242

ATTACHMENT N

April 28, 2017

To whom it may concern,

For Mark Grimes,

My Name is Felicia Ramon I have lived at 6011 Timberrock for all my life. I now live somewhere else but as a child and young adult I remember Mark Grimes always being helpful to me and my sister. If our bike was flat he would put air in our tires. He always said hi and was always very respectful and nice to us. Please keep him at home he is needed there.

Thank You,

Felicia Ramon 210-769-5271

Felicia Ramon

ATTACHMENT O

April 28, 2017

To whom it may concern,

For Mark Grimes,

My name is Genevieve Ramon-Guzman. I have known Mark for a long time. He is a very nice neighbor and has always been respectful to my sister and myself. I feel if Mark leaves at a time when his parents need him to be the son he has always been, would cause problems for the family. Mark deserves a chance. He has always been a good citizen. Please don't let him be another number. So please give him a chance.

Thank You,

Genevieve Ramon 210-324-3097

A handwritten signature in blue ink, appearing to read 'Genevieve Ramon', with a stylized, flowing script.